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MEMORANDUM

TO: Docket Control  
Arizona Corporation Commission

FROM: Ernest G. Johnson  
Director  
Utilities Division

Date: October 16, 2006

RE: **AMENDED** STAFF REPORT FOR GREEN ACRES SEWER, L.L.C AND  
GREEN ACRES WATER, L.L.C – APPLICATIONS FOR CERTIFICATES OF  
CONVENIENCE AND NECESSITY FOR WASTEWATER AND WATER  
SERVICES DOCKET NOS. SW-20431A-05-0840 AND W-20430A-05-0839

Attached is the Amended Staff Report for Green Acres Sewer, L.L.C and Green Acres Water, L.L.C applications for Certificates of Convenience and Necessity for wastewater and water services. Staff is recommending approval with conditions.

EGJ:BNC:tdp

Originator: Blessing Chukwu

Arizona Corporation Commission  
**DOCKETED**  
OCT 16 2006

DOCKETED BY	
<i>AS</i>	<i>NR</i>

AZ CORP COMMISSION  
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Service List for: Green Acres Sewer, L.L.C and Green Acres Water, L.L.C  
Docket Nos. SW-20431A-05-0840 and W-20430A-05-0839

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AMENDED STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION

GREEN ACRES SEWER, L.L.C  
AND  
GREEN ACRES WATER, L.L.C

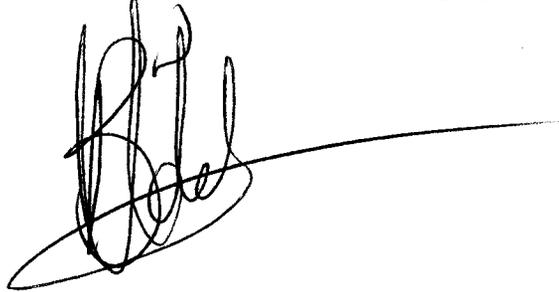
DOCKET NOS. SW-20431A-05-0840  
AND  
W-20430A-05-0839

APPLICATIONS FOR CERTIFICATES OF  
CONVENIENCE AND NECESSITY

OCTOBER 16, 2006

## STAFF ACKNOWLEDGMENT

The Amended Staff Report for Green Acres Sewer, L.L.C and Green Acres Water, L.L.C (Docket Nos. SW-20431A-05-0840 and W-20430A-05-0839) was prepared by the Staff member signed below.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Blessing Chukwu  
Executive Consultant III

**EXECUTIVE SUMMARY**  
**GREEN ACRES SEWER, L.L.C AND**  
**GREEN ACRES WATER, L.L.C**  
**DOCKET NOS. SW-20431A-05-0840 and W-20430A-05-0839**

On November 15, 2005, Green Acres Sewer, L.L.C (“GAS” or “Wastewater Company”) and Green Acres Water, L.L.C (“GAW” or “Water Company”) collectively referred to as (“The Utilities”) filed applications with the Arizona Corporation Commission (“ACC” or “Commission”) for Certificates of Convenience and Necessity (“CC&Ns”) to provide wastewater and water services in portions of Maricopa County, Arizona. On May 8, 2006, Staff filed a Sufficiency Letter indicating that the application had met the sufficiency requirements of Arizona Administrative Code.

On July 13, 2006, the Administrative Law Judge (“ALJ”) filed a Procedural Order in this docket. In the Procedural Order, the proceeding is continued to October 31, 2006, to allow time for additional discovery; the Town of Buckeye (“Town”) was ordered to file its response to Staff’s data requests not later than September 1, 2006; Staff was ordered to file an amended Staff Report not later than October 16, 2006; and the time clock is suspended until further Order.

In the Town’s response to Staff’s data requests, the Town identified three public utility companies that provide utility services within the Municipal Planning Area (“MPA”) and/or the Town’s limits, namely: Arizona-American Water Company, Arizona Water Company, and Western Maricopa Combine<sup>1</sup>. The Town indicated in its response to Staff’s data requests that portions of the extension areas (approximately 60 acres) are within the incorporated boundary of the Town, the remainder is located within unincorporated areas of Maricopa County.

Pursuant to ARS 40-282.B, every applicant for a CC&N and/or CC&N extension is required to submit to the Commission evidence showing that the applicant has received the required consent, franchise or permit from the proper authority. If the applicant operates in an unincorporated area, the company has to obtain the franchise from the County. If the applicant operates in an incorporated area of the County, the applicant has to obtain the franchise from the City/Town.

Staff has previously recommended that the Commission issue an Order Preliminary to GAW and GAS for a CC&N, to provide water and wastewater services, subject to compliance with certain conditions. Among the conditions, is a requirement that the Utilities be required to file with Docket Control, as a compliance item in this docket, a copy of all related franchise agreements for the requested area within 3 years of the decision granting the Order Preliminary. Staff believes that an Order Preliminary as previously recommended in this case would be the most equitable result. Staff’s recommendations remain unchanged.

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<sup>1</sup> Valencia Water Company and Water Utility of Greater Buckeye were subsidiaries of Western Maricopa Combine, and are now owned by Global Water Resources.

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<b>TOWN OF BUCKEYE'S RESPONSE TO STAFF'S DATA REQUESTS.....</b>	<b>A</b>
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## **Introduction**

On November 15, 2005, Green Acres Sewer, L.L.C (“GAS” or “Wastewater Company”) and Green Acres Water, L.L.C (“GAW” or “Water Company”) collectively referred to as (“The Utilities”) filed applications with the Arizona Corporation Commission (“ACC” or “Commission”) for Certificates of Convenience and Necessity (“CC&Ns”) to provide wastewater and water services in portions of Maricopa County, Arizona. On May 8, 2006, Staff filed a Sufficiency Letter indicating that the application had met the sufficiency requirements of Arizona Administrative Code.

On June 23, 2006, the Town of Buckeye (“Town”) filed an application to intervene.

On June 30, 2006, Staff sent a list of data requests to the Town.

On July 3, 2006, by Procedural Order, the Town was granted intervention.

On July 6, 2006, the Town filed a request for a continuance of the proceeding in order to respond to Staff’s data requests and in order to secure counsel to represent the Town at the Hearing.

On July 11, 2006, a full public hearing was convened.

On July 13, 2006, the Administrative Law Judge (“ALJ”) filed a Procedural Order in this docket. In the Procedural Order, the proceeding is continued to October 31, 2006, to allow time for additional discovery; the Town was ordered to file its response to Staff’s data requests not later than September 1, 2006; Staff was ordered to file an amended Staff Report not later than October 16, 2006; and the time clock is suspended until further Order.

## **Town of Buckeye’s Response to Staff’s data request**

On September 1, 2004, the Town filed its response to Staff’s data requests. (See Attachment A.) The Town indicated in its response, among other things, that:

1. About 60 acres of the requested CC&N fall within the corporate limits of the Town (specifically, portions of Parcels 5 and 6 were mentioned);
2. All of the remaining portions of the requested area are within the Town’s Municipal Planning Area (“MPA”);
3. The timetable or timeline for the Town to annex the area within the MPA is usually dependent on the timing needed by landowners to develop projects within the MPA. “Upon a request by landowners for annexation, the administrative process timeline is a minimum of 100 days based on public notice required by Arizona statutes.”;

4. The Town currently provides water and wastewater utility services within its Town limits;
5. Two (2) “private utility” companies provide water service within the Town limits;
6. One (1) “private utility” company provides water and wastewater within the Town limits;
7. The Town provides water service to a few small businesses and a county island of large-lot existing residential homes that are outside of its incorporated boundary;
8. No wastewater services are provided by the Town outside of its Town limits; and
9. There are public service companies that provide water and/or wastewater service within the MPA.

### **Analysis**

Pursuant to ARS 40-282.B, every applicant for a CC&N and/or CC&N extension is required to submit to the Commission evidence showing that the applicant has received the required consent, franchise or permit from the proper authority. If the applicant operates in an unincorporated area, the company has to obtain the franchise from the County. If the applicant operates in an incorporated area of the County, the applicant has to obtain the franchise from the City/Town.

Staff duplicated a map of the Town’s MPA and overlaid the service territories of public service companies in and around the Town’s MPA. (See Attachment B). In reviewing Attachment B, Staff notes that there are several public service companies that operate within the Town’s MPA. The public service companies are Arizona-American Water Company, Arizona Water Company, Valencia Water Company, Grandview Water Company, and Water Utility of Greater Buckeye.

In the Town’s response to Staff’s data requests, the Town identified three public utility companies that provide utility services within the MPA and/or the Town’s limits, namely: Arizona-American Water Company, Arizona Water Company, and Western Maricopa Combine<sup>2</sup>. The Town indicated in its response to Staff’s data requests that portions of the extension areas (approximately 60 acres) are within the incorporated boundary of the Town, the remainder is located within unincorporated areas of Maricopa County.

The Utilities do not have a franchise agreement or other consent to operate within the Town or within Maricopa County. In this case, the Town by its intervention has clearly indicated its objection to the Utilities providing utility services within the Town’s limits and in

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<sup>2</sup> Valencia Water Company and Water Utility of Greater Buckeye were subsidiaries of Western Maricopa Combine, and are now owned by Global Water Resources.

the unincorporated areas of Maricopa County that are part of the Town's MPA. Nonetheless, the Utilities have requests for service from the property owners in the CC&N extension area.

Staff has previously recommended that the Commission issue an Order Preliminary to GAW and GAS for a CC&N, to provide water and wastewater services, subject to compliance with certain conditions. Among the conditions, is a requirement that the Utilities be required to file with Docket Control, as a compliance item in this docket, a copy of all related franchise agreements for the requested area within 3 years of the decision granting the Order Preliminary. After reviewing the additional information provided by the Town, Staff believes that an Order Preliminary as previously recommended in this case would be the most equitable result. An Order Preliminary to a CC&N will give the Utilities the opportunity to request official action of the Town regarding a franchise for operation within the Town's municipal boundary or official action of Maricopa County for the area outside the Town's municipal boundary. Staff would like to clarify that in order to get a CC&N, the Utilities would have to meet all the requirements of the Order Preliminary. Any portion of the requested extension area for which the Utilities fail to meet all the requirements of the Order Preliminary, including the requirement to obtain a franchise, consent or permit from the proper authority (the Town or Maricopa County) within the specified time, would automatically be excluded from the CC&N extension.

### **Recommendations**

Staff's recommendations remain unchanged.

**LEWIS  
AND  
ROCA**  
LLP  
LAWYERS

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Phoenix, Arizona 85004-4429

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Admitted in: Arizona

Our File Number: 44086-00010

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September 1, 2006

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AZ CORP COMM  
Director Utilities

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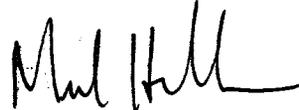
Re: Green Acres Water Company, LLC and Green Acres Sewer Company, LLC -  
Docket Nos. W-20430A-05-0839 and SW-20431A-05-0840

Dear Ms. Chukwu and Mr. Ronald:

Enclosed are the Town of Buckeye's Responses to the data requests submitted by Staff on June 30, 2006.

Very truly yours,

LEWIS AND ROCA LLP



Michael T. Hallam

MTH/bjg  
Enclosure

cc: Docket Control  
Beth Heath

**BEFORE THE ARIZONA CORPORATION COMMISSION**

**JEFF HATCH-MILLER**  
Chairman

**WILLIAM MUNDELL**  
Commissioner

**MIKE GLEASON**  
Commissioner

**KRISTIN K. MAYES**  
Commissioner

**BARRY WONG**  
Commissioner

IN THE MATTER OF THE APPLICATION )  
OF GREEN ACRES WATER, L.L.C. FOR )  
APPROVAL OF A CERTIFICATE OF )  
CONVENIENCE AND NECESSITY TO )  
PROVIDE WATER SERVICE. )  
\_\_\_\_\_ )

Docket No. W-20431A-05-0839

IN THE MATTER OF THE APPLICATION OF )  
GREEN ACRES SEWER, L.L.C. FOR )  
APPROVAL OF A CERTIFICATE OF )  
CONVENIENCE AND NECESSITY TO )  
PROVIDE SEWER SERVICE. )  
\_\_\_\_\_ )

Docket No. SW-20431A-05-0840

**TOWN OF BUCKEYE'S**  
**RESPONSES TO**  
**ARIZONA CORPORATION COMMISSION STAFF'S**  
**FIRST SET OF DATA REQUESTS**

The Town of Buckeye (the "Town") submits the following responses to the Arizona Corporation Commission Staff's ("Staff") First Set of Data Requests in the above-referenced docket. The Town expressly reserves the right to supplement or amend its responses as necessary.

**SPECIFIC DATA RESPONSES**

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**Staff Request for Information**

1. Please confirm whether or not the requested area is within the corporate town limits of the Town of Buckeye.

**RESPONSE**

The requested area is partially within the corporate town limits of the Town of Buckeye. This was affirmed by the applicant in the Ladera development's application before the Maricopa County, Planning and Development Department for approval of a Development Master Plan (DMP 2006005, dated March 27, 2006), wherein it is states in Section 2.5, Municipal Boundaries, on page 8: "portion of the Ladera DMP totaling about 60 acres falls within the Town of Buckeye."

For the specific areas with the corporate town limits of the Town of Buckeye, please refer to the information provided in response to Question 2 below.

2. If a portion of the requested area is within the Town limits, please provide a legal description of the area or identify the Parcels that are within the town limits. Please be sure to include the Section Numbers, Townships, and Range.

RESPONSE

Portions of the requested area that are within the corporate limits of the Town of Buckeye include the following:

Parcel 5 located in section 33, Township 2 South, Range 4 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona

Parcel 6 located portion in Section 32 and portion on Section 33, Township 2 South, Range 4 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

3. If a portion of the requested area is within the Municipal Planning Area of the Town of Buckeye, please provide a legal description of the area or identify the Parcels that are within the Municipal Planning Area of the Town of Buckeye. Please be sure to include the Section Numbers, Townships, and Range.

RESPONSE

All of the remaining portions of the requested area are within the Town Planning Limits and include the following:

Parcel 4, located in Section 26, Township 2 South, Range 4 West of the Gila & Salt River Meridian, Maricopa County, Arizona.

Parcel 10, 11, 12, 13, 14 all located in Section 28, Township 2 South, Range 4 West of the Gila & Salt River Meridian, Maricopa County, Arizona

Parcel 19 located in Section 31, Township 2 South, Range 4 West of the Gila & Salt River Meridian, Maricopa County, Arizona

Parcel 7, 8, 18, 17, all located in Section 32, Township 2 South, Range 4 West of the Gila & Salt River Meridian, Maricopa County, Arizona

Parcel 6 located in the South East Quarter of the South East Quarter of Section 32, the South West Quarter of the South West Quarter of Section 33, all in Township 2 South, Range 4 West of the Gila & Salt River Meridian, Maricopa County, Arizona

Parcel 5, 9, 16 all located in Section 33, Township 2 South, Range 4 West of the Gila & Salt River Meridian, Maricopa County, Arizona

Parcel 23, the West Half of the South West Quarter of the South East Quarter of Section 36 (diagonally South of HWY 80) Township 2 South, Range 5 West of the Gila & Salt River Meridian, Maricopa County, Arizona

Parcel 1, 2, 20 all located in Section 6, Township 3 South, Range 4 West of the Gila & Salt River Meridian, Maricopa County, Arizona

Parcel 21, 22 all located in Section 5, Township 5 South, Range 4 West of the Gila & Salt River Meridian, Maricopa County, Arizona

Parcel 15 located in  
The South West Quarter of the South West Quarter of Section 28;  
And the South East Quarter of the South West Quarter of Section 29;  
And the South Half of the South East Quarter of Section 29

The East Half of the North East Quarter of Section 31;  
The North West Quarter of the North West Quarter of Section 32;  
And the South West Quarter of the Northwest Quarter of Section 32;  
And the North East Quarter of the North West Quarter of Section 32

All in Township 2 South Range 4 West of the Gila and Salt River Base Meridian,  
Maricopa County, Arizona

Parcel 3 The approximate Southwest Triangular area of the Southeast Quarter of Section 1  
in Township 3 South Range 5 West of the Gila and Salt River Base Meridian, Maricopa  
County, Arizona; that diagonal line running Northwest to Southeast and encompassing the  
area South and West of said line within Southeast Quarter of said Section 1.

All of the North Half of the Northwest Quarter of Section 1 in Township 3 South Range 5  
West of the Gila and Salt River Base Meridian, except the approximate Northeast  
triangular area of the Northeast Quarter of the Northwest Quarter of Section 1; that  
diagonal line running Northwest to Southeast and Encompassing the area north and East of  
said line within the Northwest Quarter of Section 1.

4. For the area that is within the Municipal Planning Area of the Town of Buckeye, please provide the timetable or timeline for the Town of Buckeye to annex the area.

RESPONSE

The timetable or timeline is usually dependent on the timing needed by landowners to develop projects within the planning area. Upon a request by a landowner for annexation, the administrative process timeline is a minimum of 100 days based on public notice periods required by Arizona statutes.

5. Does the Town of Buckeye currently provide water and wastewater services within its Town limits or are water and wastewater services being provided under contract by a public service company? Please explain.

RESPONSE

The Town of Buckeye currently provides water and wastewater services within its Town limits.

Three private utility companies also provide water services within the Town limits. One private utility provides sewer and water service. Further information related to these private utilities is provided in the answer to Question 8.

No public service or private utility company is under contract with the Town to provide water and wastewater services.

6. Does the Town of Buckeye currently provide water and wastewater services outside the Town limits? Please explain.

RESPONSE

The Town has provided water services since 1960 to a few small businesses that exist in county islands. In addition, the Town provides water services to a county island of large-lot existing residential homes where the public water utility, due to financial hardship, surrendered the service area to the Town.

No wastewater services are provided outside of the incorporated limits of the Town, although a small number of exceptions may exist for residential homes and businesses located in county islands.

Water and sewer services, as a matter of practice and policy by the Town, are usually a condition of development agreements associated with annexation.

It is not the current practice of the Town to provide water and sewer services outside of its incorporated boundary. The Town expects, however, that the areas requested in the Applicant's CC&N application will be annexed by the Town and will not be outside of the Town's boundaries.

7. Please provide a map that depicts the Town's water and wastewater service territory.

**RESPONSE**

The Town's water and wastewater service territory is the same as its incorporated boundaries (or Town limits), with the exception of the areas where the Town provides water service to a few small businesses and county island residents in the service area of a failing public water utility.

A map of the incorporated boundaries of the Town is attached.

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8. Are there any public service companies that provide water and/or wastewater service within the Municipal Planning area of the Town of Buckeye? If so, please provide the names of the companies and the service(s) provided.

RESPONSE

Within the Municipal Planning Area (MPA) of the Town of Buckeye, there are several small county islands and several annexed areas in which water services only are provided by a public service company.

Western Maricopa Combine, Arizona Water Company, and Arizona-American Water Company are the names of the public service companies serving water in the MPA.

One of the water service areas of Western Maricopa Combine in the Town's MPA is currently under condemnation proceedings. This condemnation was initiated by the Town to reduce the fractionation of sewer and water services in this area and to allow for a regional system of services by the Town that would otherwise be divided by this service area.

Arizona-American Water Company is the only public service company providing sewer services for a limited annexed area within the MPA.

The Arizona-American Water Company service area was reduced recently, at the developer's/utility's request, so the Town could provide water and sewer services to supporting commercial and industrial projects on the fringes of this area.

9. Please provide a map that depicts the area that is covered by the Town's MAG 208. Please be sure to include the Section Numbers, Township, and Range. In the alternative, please provide the legal description of the area that is covered by the Town's MAG 208.

#### RESPONSE

The Maricopa County Association of Governments (MAG) regional planning, in accordance with Federal and State requirements and Section 208 of the federal Clean Water Act, is a process that approves the location, size and area-of-service for new sewage treatment facilities.

There is not a singular "Town's MAG 208" area for which a description can be provided.

However, the Town is currently constructing for submittal to MAG the location of sewage treatment facilities that will serve the entire Municipal Planning Area of the Town. This submittal shall include the location of existing sewage treatment facilities, planned/approved facilities and their respective service areas. It will also include the location of new sewage treatment facilities.

A preliminary map that locates the existing, planned/approved and new sewage treatment facilities for the Town's planning area is attached; however the exact location of new sewage treatment facilities and service areas are still under evaluation as part of the overall submission to MAG for approval.

This attached map includes the proposed location of the Town's new sewage treatment facility that would cover the service area requested by the applicant for Green Acres/Ladera, as well as the service areas of other developments in this area who have expressed the intent to obtain sewer service from the Town as part of annexation.

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